IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 162 of 2005

R.S.R.T.C.
V/S
DAULI & ORS

Mr. ARJUN SINGH, for the appellant / petitioner

Date of Order : 7.2.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

It is contended by the learned counsel that the finding on issue no.1, regarding negligence is bad, as according to Ex.5 & 6, the accident is said to have occurred in the mid of the road, and therefore, the driver of the bus cannot be said to be solely negligent.

In my view, this contention need not detain me for the simple reason, that the victim, the deceased, was a pillion rider, and therefore, even if the motorcyclist was contributory in negligence, still the claimants are entitled to claim entire compensation from the appellant.

The next submission made was regarding quantum. Learned counsel assailed the multiplier. However, I find that the multiplier is in accordance with the provisions of Second Schedule appended to Motor Vehicles Act. So far as the finding about income is concerned, the claimant has clearly established that the deceased was having lathe machine, and was operating it, as he was a skilled mechanic, capable of operating lathe, and was earning about Rs.7000 to 8000/- per month. Likewise, P.W.3, one of the customers, has proved the income of the deceased to be around Rs.5000/- to 6000/- per month. There is no rebuttal to this evidence, whether to the effect, that deceased was not having any lathe machine, or that the claimant was not earning as claimed. Notwithstanding this, learned Tribunal has assessed the income at Rs.4500/- per month only, and after making deduction of 1/3rd for personal expenditure, has assessed the compensation, which cannot be said to be excessive.

Thus, I do not find any force in the appeal. The same is, therefore, dismissed summarily.

(N P GUPTA),J.

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